



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/684,032

10/06/2000

Christopher S. Nolan

420-002

1056

7590

07/05/2006

J. Ralph King
King and Schickli PLLC
247 North Broadway
Lexington, KY 40507

EXAMINER

FOX, CHARLES A

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/684,032	Applicant(s) NOLAN, CHRISTOPHER S.	
	Examiner Charles A. Fox	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-11, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

In view of the appeal brief filed on September 22, 2003, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2). In the previous office action the examiner transposed the numbers for claims 15 and 16 in the heading section of their respective rejections. The only changes below in the rejections is the proper placement of the rejections of claims 15 and 16, as such to reinstate the appeal applicant need only amend the brief in regards to these claims, as no other changes have been made to the rejections.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3652

Claims 1,2,5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fell et al. . In regards to claim 1 Fell et al. (US 3,951,284) disclose a moisture proof liner (20) for a shipping container comprising:

four panels of impervious film to match the top, bottom, and sides of the container;

two end panels to complete the liner;

an access panel in the liner corresponding to the opening of the container that is adapted for loading and unloading cargo;

a closure to seal the liner to protect the cargo from moisture.

In regards to claim 2 Fell et al. further disclose tubes (45,48) attached to the access openings of the liner (20).

In regards to claims 5 and 6 Fell et al. also disclose access openings for containers having openings on one or more sides depending on the configuration of the container.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,5,6, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fell et al. In regards to claim 1 Fell et al. (US 3,951,284) teach a moisture proof liner (20) for a shipping container comprising:

- four panels of impervious film to match the top, bottom, and sides of the container;

- two end panels to complete the liner;

- an access panel in the end of the liner corresponding to the opening of the container that is adapted for loading and unloading cargo;

- a closure to seal the liner to protect the cargo from moisture.

While Fell et al. do not explicitly teach the opening in the side of the liner it would have been obvious to one of ordinary skill in the art, at the time of invention to place the opening at a location in the liner corresponding to where there is an opening in the container.

In regards to claim 2 Fell et al. further teach tubes (45,48) attached to the access openings of the liner (20).

In regards to claims 5 and 6 Fell et al. also teach access openings for containers having openings on one or more sides depending on the configuration of the container.

In regards to claims 13,15 and 17 Fell et al. teach a moisture proof liner (20) for a shipping container comprising:

- Four elongated panels of impervious film to match the top, bottom, and sides of the container;

- two end panels to complete the liner;

an access panel in the side of the liner corresponding to the opening of the container that is adapted for loading and unloading cargo;

a closure to seal the liner to protect the cargo from moisture.

While Fell et al. do not explicitly teach the opening in the elongated side of the liner it would have been obvious to one of ordinary skill in the art, at the time of invention to place the opening at a location in the liner corresponding to where there is an opening in the container, and to not place an opening in a panel that is not adjacent to an opening in the container.

Claims 3,4,12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fell et al as applied to claims 1,2 and 13 as above, and further in view of Krein et al.

In regards to claims 3 and 12 Fell et al. teach the limitations of claim 2 as above, they do not teach the liner and tubes as being a plastic sheet material joined by heat welding of the mating surfaces. Krein et al. (US 5,028,197) teach a plastic liner with joints that are fused together using heat. See column 5 lines 43-57, Krein et al. further teach using a source of air to aid in erecting the liner, said source of air comprising a plurality of orifices.

Regarding claim 4 Fell et al. further teach that the tubes (45,48) are closed with a tie (46) and tucked inside the container (30) during transport.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fell et al. as applied to claim 1 above, and further in view of Derby. Fell et al. teach the limitations of claim 1 as above they do not teach the end panels as

Art Unit: 3652

being folded and heat sealed. Derby US 5,746,862 teaches using a liner for a container with panels having folding gussets (22,24). It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the liner taught by Fell et al. with the gussets taught Derby in order to allow easy storage of the liner when not in use as well as making and deployment of the liner easier.

Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fell et al. as applied to claims 13 and 17 above, and further in view of Krein. Fell et al. teach the limitations of claims 13 and 17 as above, they do not teach the liner as being free standing. Krein US 4516,906 teaches a liner (16) for a container (10) wherein the liner is free standing when installed. It would have been obvious to one of ordinary skill in the art, at the time of invention to modify the liner taught by Fell et al. to be free standing as taught by Krein '906 in order to decrease the complexity and time involved for installing the liner thereby making the liner easier to use.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fell et al. as applied to claim 13 above, and further in view of Paton. Fell et al. teaches the limitations of claim 13 as above, they further teach placing the openings of the liner at the same location as the openings in a container the liner is to be installed into. While Fell et al. does not explicitly show a liner with solid ends they suggest one. Paton US 3,456,834 teaches a liner for a rail car wherein it has openings designed to correspond with openings in the container, and as such does not have openings at either of its ends. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the Fell et al. liner with unopened ends as taught by Paton if it were

Art Unit: 3652


to be used in a container without open ends as both Fell et al. and Paton teach placing the openings to the liner at openings in the container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CAF
CAF
6-22-06



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600